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# KERALA GAZETTE

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GOVERNMENT OF KERALA

**Law Department**

NOTIFICATION.

No. 2649|H3|61|Law.

*Dated, Trivandrum, 15th July 1961|24th Asadha 1883.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 12th day of July, 1961.

By order of the Governor,
P. SANKARAN ELAYATH,
*Law Secretary.*

# ACT 25 OF 1961

## THE KERALA ADDITIONAL TAX ON LANDS ACT, 1961

*An Act to provide for the levy of an additional tax on certain lands.*

**Preamble.**—WHEREAS it is expedient to provide for the levy of an additional tax on certain lands;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Kerala Additional Tax on Lands Act, 1961.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force with effect on and from the 1st day of April, 1961.

2. **Exemptions.**—(1) Nothing in this Act shall apply to—

(i) lands belonging to the Government;

(ii) Sreepandaravaka lands belonging to the Sree Padmanabhaswami Temple; and

(iii) Sreepadam lands belonging to the Sreepadam Palace.

(2) The Government may, by notification in the Gazette, exempt any land belonging to any public body or institution from the provisions of this Act, if the Government are satisfied that such exemption is necessary in the public interest; and the Government may, by like notification, cancel any such exemption.

(3) All notifications issued by the Government under sub-section (2) shall, as soon as may be after they are issued, be laid before the Legislative Assembly for a period of not less than fourteen days, and shall be subject to such modifications

as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

3. Definitions.—In this Act, unless the context otherwise requires,—

(a) "additional tax" means the additional tax on lands imposed under the provisions of this Act;

(b) "appellate authority" means the appellate authority appointed by the Government;

(c) "assessee" means a person by whom additional tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of additional tax payable by him;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "prescribed authority" means the authority appointed by the Government under clause (7) of section 3 of the Kerala Land Tax Act, 1961;

(f) "to hold" with reference to a land means to be in possession of the land as owner or as tenant or as mortgagee.

Explanation.—The expression "tenant" shall have the meaning assigned to it in the Kerala Agrarian Relations Act, 1960.

4. **Charge of additional tax.**—(1) Subject to the provisions of this Act, there shall be charged and levied with effect on and from the 1st day of April, 1961, an additional tax at the rate of two rupees per acre per annum, on all lands of whatever description held by a person, the gross income from which is not less than twenty rupees per acre per annum:

Provided that—

(i) no additional tax shall be levied on the lands held by a person if the total extent of the lands held by him does not exceed two acres;

(ii) where a person holds lands liable to be assessed to plantation tax under the Kerala Plantations (Additional Tax) Act, 1960 (Act 17 of 1960), an extent of land equal to the extent of plantation which would be deemed to be held by him under Schedule II of the said Act shall be deducted from the total extent of lands held by him, and the additional tax under this Act shall be charged and levied only on the extent remaining after such deduction.

(2) Notwithstanding anything contained in section 22 of the Kerala Agrarian Relations Act, 1960, the additional tax on any land shall be paid by the person who holds the land.

(3) The tax charged under this section on any land shall be in addition to the basic tax payable in respect of such land under the Kerala Land Tax Act, 1961.

(4) The provisions of the Kerala Land Tax Act, 1961, and the rules made thereunder applicable for the determination of the gross income from lands for purposes of that Act shall, as far as may be, apply for the determination of the gross income from lands for purposes of this Act.

5. **Return relating to lands liable to additional tax.**—(1) Every person who, on the 1st day of April, 1961, held any land liable to the additional tax under this Act shall, before the 30th day of September of that year, furnish to the prescribed authority a return in the prescribed form and verified in the prescribed manner and containing such particulars relating to the lands held by him as may be prescribed.

(2) Every person who, on the first day of April of any year subsequent to 1961, holds lands liable to additional tax, but who has not been assessed to such tax shall, before the 30th day of September immediately succeeding the date on which he came to hold such lands, furnish to the prescribed authority a return in the prescribed form and verified in the prescribed manner and containing such particulars as may be prescribed.

(3) If the prescribed authority is of the opinion that any person holds lands liable to the additional tax under this Act, then, notwithstanding anything contained in sub-section (1) or sub-section (2), it may serve a notice upon such person requiring him to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be required in the notice.

(4) the prescribed authority may, if it is satisfied that it is necessary so to do, extend the date for the furnishing of the return under this section.

6. **Return after due date and amendment of return.**—If any person has not furnished a return within the time allowed under section 5, or having furnished a return under that section discovers any omission or a wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

7. **Assessment.**—(1) If the prescribed authority is satisfied without requiring the presence of the assessee or production by him of any evidence that a return made under section 5 is correct and complete, it shall determine the extent of lands held by him for the purposes of the levy of the additional tax and assess the amount payable by him as additional tax on the basis of the return.

(2) If the prescribed authority is not so satisfied, it shall serve a notice on the assessee either to attend in person in its office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The prescribed authority, after hearing such evidence as the person may produce and such other evidence as it may require on any specified points, shall, by order in writing, determine the extent of lands held by the assessee for the purposes of the levy of the additional tax and assess the amount payable by him as additional tax.

(4) For the purpose of making an assessment under this Act the prescribed authority may serve on any person who has made a return under sub-section (1) or sub-section (2) of section 5 or upon whom a notice has been served under sub-section (3) of that section a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the prescribed authority may require.

(5) If any person fails to make a return in response to any notice under sub-section (3) of section 5, or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the prescribed authority shall determine the extent of lands held by him for the purposes of the levy of additional tax to the best of its judgment and assess the amount payable by him as additional tax on the basis of the extent so determined.

8. **Provisional assessment.**—(1) Notwithstanding anything contained in section 4, where a person holds lands which have not been surveyed and the prescribed authority is satisfied that the extent of lands held by him is such that he is liable to pay the additional tax, the prescribed authority may make a provisional assessment of the additional tax payable by him. For the purpose of making the provisional assessment, the prescribed authority shall, by notice, call upon the person who holds the lands to furnish such particulars relating to the lands held by him as the prescribed authority considers necessary within such time as may be specified in the notice.

(2) If the prescribed authority is satisfied that the particulars furnished by the person who holds the lands are correct and complete it shall make a provisional assessment of the additional tax payable by him on the basis of the particulars so furnished.

(3) If the particulars called for under sub-section (1) are not furnished within the time specified therefor or if the particulars furnished appear to the prescribed authority to be incorrect or incomplete, the prescribed authority may make a provisional assessment of the additional tax payable by the person who holds the lands to the best of its judgment:

Provided that before making a provisional assessment under this sub-section the person who holds the lands shall be given an opportunity to show cause against the proposed assessment.

(4) The order of the prescribed authority under sub-section (2) or sub-section (3) shall be communicated to the person who holds the lands.

(5) The amount of the tax under the provisional assessment fixed under this section shall be recoverable in the same manner as the additional tax.

(6) After a survey has been conducted of the unsurveyed lands, the prescribed authority shall make a regular assessment of the additional tax payable by the person who holds such lands. The provisions of sections 5, 6 and 7 shall apply to such regular assessment subject to the modification that the return under section 5 shall be furnished before the 30th day of September immediately succeeding the date of survey. Any amount paid towards the provisional assessment shall be deemed to have been paid towards the regular assessment and, where the amount paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the person entitled thereto.

9. Reassessment of additional tax.—(1) The additional tax assessed under this Act shall be payable by the assessee for every financial year until a reassessment is made under sub-section (3) or sub-section (5) and such reassessment comes into force.

(2) Where subsequent to the date of determination of the extent of lands held by a person liable to pay the additional tax under this Act he comes to hold any land in addition to the lands already held by him, he shall, before the 30th day of September immediately succeeding the date on which he so came to hold such land, furnish to the prescribed authority a return in the prescribed form and verified in the prescribed manner and containing such particulars relating to such land as may be prescribed.

(3) The prescribed authority may determine the extent of lands held by the person referred to in sub-section (2) and reassess the additional tax payable by him on the basis of the extent of lands so determined.

(4) Where a person liable to pay the additional tax under this Act ceases to hold any land assessed to such tax, he may apply to the prescribed authority for a reassessment or cancellation of the assessment of the additional tax payable by him.

(5) The prescribed authority may, on receipt of an application under sub-section (3), determine the extent of lands held by the applicant and reassess the tax payable by him or cancel the assessment, as the case may be, on the basis of such determination.

(6) The provisions of sub-sections (3) and (4) of section 5 section 6 and section 7 shall, as far as may be, apply to the reassessment of the additional tax under sub-sections (3) and (5).

(7) A reassessment under this section shall come into force with effect on and from the first day of April immediately succeeding the date of reassessment.

10. **Notice of demand.**—When any additional tax is due in consequence of any order passed under or in pursuance of this Act, the prescribed authority shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

11. **Appeals.**—(1) Any assessee objecting to the determination of the extent of lands held by him, or to the assessment of additional tax payable by him, or denying his liability to be assessed under this Act, or objecting to any order of the prescribed authority under this Act may appeal to the appellate authority against such determination, assessment or order, as the case may be:

Provided that no appeal shall lie unless the additional tax has been paid.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of five rupees.

(3) The appeal shall be presented within thirty days of the receipt of the order appealed against, but the appellate authority may admit an appeal after the expiration of the period aforesaid if it is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(4) The appellate authority may, after giving the prescribed authority and the appellant an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The order of the appellate authority shall be communicated to the appellant and to the prescribed authority.

(6) The order of the appellate authority shall, subject to the provisions of sections 12 and 13, be final and shall not be called in question in any court of law.

(7) Where the amount of the additional tax paid is in excess of the amount due under the order in appeal, such excess shall be refunded to the person entitled thereto.

12. **Reference to District Court.**—(1) Subject to such conditions and limitations as may be prescribed, the assessee may, by application in the prescribed form within thirty days of the date upon which he is served with notice of an order under sub-section (4) of section 11, require the appellate authority to refer to the District Court any questions of law arising out

of such order, and the appellate authority may, within sixty days of the receipt of such application, draw up a statement of the case and refer it to the District Court.

(2) If the District Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the appellate authority to make such additions thereto or alterations therein as the court may direct in that behalf.

(3) The District Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the court to the appellate authority which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(4) The decision of the District Judge on such reference shall be final.

(5) Notwithstanding that a reference has been made under this section to the District Court, additional tax shall be payable in accordance with the assessment made in the case:

Provided that if the amount of assessment is reduced or if the assessment is set aside as a result of such reference the amount overpaid or paid shall be refunded.

(6) For the purposes of this section, "District Court" means the District Court having jurisdiction over the area in which the land on which additional tax has been levied is situate.

13. Revision.—(1) The Board of Revenue may, at any time of its own motion or within thirty days from the date of the order of the appellate authority on the application of any party, call for and examine the record of any proceeding pending before or disposed of by the appellate authority and may pass such orders as it deems fit:

Provided that no order enhancing the amount of additional tax shall be passed without notice to the party who may be affected by the order:

Provided further that no order passed on the basis of a decision made on a reference to the District Court under section 12 and to the extent to which such order is covered by such decision shall be subject to revision by the Board of Revenue.

(2) Where the amount of additional tax paid is in excess of the amount due under the order in revision, such excess shall be refunded to the person entitled thereto.

14. Payment of additional tax.—Any amount specified as payable in a notice of demand under section 10 or an order under section 11, or an order under section 12 or an order under section 13 shall be paid in such number of instalments, within

such time, at such place and to such person as may be prescribed, and any assessee failing so to pay shall be deemed to be in default.

15. **Mode and time of recovery.**—(1) When the additional tax is not paid on the due date the arrears of the tax shall bear interest at the rate of six per cent per annum from the date of default.

(2) The arrears of additional tax together with the interest, if any, thereon shall be a first charge on the interest of the holder of the land subject to the charge for basic tax, and shall be recoverable under the law for the time being in force relating to the recovery of arrears of land revenue; and any sale of such interest for arrears of additional tax and interest, if any, shall be free from all encumbrances.

16. **False statements in declaration.**—If any person makes a statement in a verification mentioned in section 5 or sub-section (2) of section 11 which is false and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

17. **Failure to furnish return or document.**—If any person fails without reasonable cause or excuse—

(a) to furnish in due time any return specified in sub-section (1) or sub-section (2) or sub-section (3) of section 5, or sub-section (2) of section 9; or

(b) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) of section 7 such documents as are referred to in the notice,

he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

18. **Power to take evidence on oath, etc.**—The prescribed authority, the appellate authority and the revisional authority shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents; and

(c) issuing commissions.

19. **Prosecutions.**—(1) A person shall not be proceeded against for an offence under section 16, or section 17, except at the instance of such officer as may be authorised by the Government in this behalf.

(2) Before instituting proceedings against any person under sub-section (1) the officer so authorised shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The officer so authorised may either before or after the institution of proceedings compound any such offence.

20. **Place of assessment.**—The extent of lands held by a person shall be determined by the prescribed authority of the area in which the lands are situated, or where the lands are situated within the jurisdiction of two or more prescribed authorities, by such of those authorities and in such manner as may be prescribed.

21. **Rectification of mistakes.**—At any time within three years from the date of any order passed by it the prescribed authority or the appellate authority or the revisional authority may, of its own motion, rectify any mistake apparent from the record and shall, within a like period, rectify any such mistake which has been brought to the notice of the prescribed authority or the appellate authority or the revisional authority, as the case may be, by the holder of the land or other person liable to pay the additional tax:

Provided that no such rectification shall be made which has the effect of enhancing the tax payable, unless the holder of the land has been given a reasonable opportunity of being heard in the matter.

22. **Protection of action taken in good faith.**—(1) No suit against the Government shall be entertained in any civil court in respect of anything done or any order passed under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith done or intended to be done under this Act or the rules made thereunder.

23. **Power to make rules.**—(1) The Government may make rules for carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules—

(a) as to the procedure to be followed by the prescribed authority and the appellate authority in the proceedings before them;

(b) as to the procedure to be followed in reassessing the additional tax under section 9 and the form of application under sub-section (4) of that section;

(c) as to the form of the notice of demand mentioned in section 10;

(d) as to the form of application under sub-section (1) of section 12;

(e) as to the mode and manner of the assessment and recovery of the additional tax;

(f) as to the service of notices and the communication of orders to parties;

(g) as to the mode of making refunds;

(h) for determining the instalments in which the additional tax is payable and the dates on which such instalments shall be due; and

(i) any other matter which has to be, or may be, prescribed for purposes of this Act.

(3) All rules made under this Act shall be laid for a period of not less than fourteen days before the Legislative Assembly, as soon as may be after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following.

24. Remission of additional tax.—Notwithstanding anything contained in this Act, the Government may remit, in whole or in part, the amount of additional tax payable by any person, if they are satisfied that it is necessary to do so on account of the failure or destruction of crops or on account of the fact that the yield in any land held by him has been substantially reduced due to natural causes.

Gazette Extraordinary No. 89 dated 15th July 1961.

GOVERNMENT OF KERALA

Law Department

NOTIFICATION.

No. 350|H2|61|Law.

*Dated, Trivandrum, 15th July 1961|24th Asadha 1883.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 12th day of July, 1961.

By order of the Governor,
P. SANKARAN ELAYATH,
*Law Secretary.*

# THE KERALA CATTLE TRESPASS ACT, 1961

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# ACT 26 OF 1961

# THE KERALA CATTLE TRESPASS ACT, 1961

*An Act to consolidate and amend the law relating to trespass by cattle in the State of Kerala.*

*Preamble.*—WHEREAS it is necessary to consolidate and amend the law relating to trespass by cattle on lands and causing damage to crops and other produce thereon, in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

## CHAPTER I

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Cattle Trespass Act, 1961.

(2) (a) It extends to the whole of the State of Kerala;

(b) The Government may, by notification in the Gazette, exclude any area from the operation of this Act from such date as may be specified therein.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "cattle" means cows, oxen and bulls and includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, kids and fowls and such other kinds of animals as the Government may, by notification in the Gazette, specify;

(2) "Director" means the Director of Local Bodies appointed by the Government;

(3) "local authority" means any Municipal Corporation, Municipal Council or Panchayat, or, in any area where there is no Municipal Corporation, Municipal Council or Panchayat, such authority as the Government may appoint in this behalf.

## CHAPTER II

### POUNDS AND POUND-KEEPERS

3. *Establishment of pounds.*—(1) Pounds may be established at such places in each district as the Director may, from time to time, direct.

(2) The area by which every pound is to be used shall be determined by the Director.

4. *Control of pounds and rates of charge for feeding impounded cattle.*—The pounds shall be under the control of the local authority and that authority shall fix, and may, from time to time alter, the rates of charge for feeding and watering impounded cattle.

5. *Appointment of pound-keepers.*—(1) Every pound shall be in the charge of a pound-keeper appointed by the local authority concerned.

(2) Every pound-keeper shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) Every pound-keeper appointed by the local authority may be suspended or removed by that authority.

### Duties of Pound-keepers

6. *To keep registers and furnish returns.*—Every pound-keeper shall keep such registers, and furnish such returns as the Government may, from time to time, direct.

7. *To register seizures.*—When cattle are brought to a pound, the pound-keeper shall enter in his register—

(a) the number and description of the cattle;

(b) the day and hour on and at which they were so brought;

(c) the name and residence of the seizer; and

(d) the name and the residence of the owner, if known.

The seizer shall affix his signature in the register. The pound-keeper shall give the seizer or his agent a copy of the entries aforesaid.

8. *To take charge of and feed cattle.*—The pound-keeper shall take charge of, feed and water the cattle, until they are disposed of as hereinafter directed.

## CHAPTER III

### Impounding Cattle

9. *Cattle damaging land may be seized and police to aid such seizures.*—(1) The cultivator or occupier of any land, or any person who has acquired a right for the cultivation of the crop or produce on any land,

or the vendee or mortgagee of such crop or produce or any part thereof,

may seize, or cause to be seized, any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to the pound established for the area in which the land is situate.

(2) All officers of Police shall, when required, aid in preventing—

(a) resistance to such seizures, and
(b) rescues from persons making such seizures.

10. *Cattle damaging public roads, canals and embankments.*—Persons in charge of public roads, pleasure grounds, plantations wherein common grazing grounds are available, canals, drainage works, tanks, embankments, and the like and officers of Police, officers employed by local authorities within their respective jurisdictions and such other officers as the Director may empower in this behalf, may seize, or cause to be seized, any cattle doing damage to such roads, grounds, plantations, canals, drainage works, tanks, embankments and the like or the sides or slopes of such roads, canals, drainage works, tanks or embankments or found straying thereon, and shall send them or cause them to be sent within twenty-four hours, to the nearest pound.

11. *Fines for cattle impounded.*—(1) For every head of cattle impounded as aforesaid the pound-keeper shall levy a fine in accordance with the scale for the time being prescribed by the Director in this behalf by notification in the Gazette. Different scales may be prescribed for different local areas and for different kinds of cattle.

(2) Notwithstanding anything contained in sub-section (1), when it appears to the Director that in any local area cattle are habitually allowed to trespass on land and damage crops or other produce thereon, he may, by notification in the Gazette, direct that for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, such amount of fine as may be specified by him in the said notification, not exceeding double the fine prescribed under sub-section (1), shall be levied.

(3) All fines levied under this section shall be credited to the fund of the local authority or where there is no Municipal Corporation, Municipal Council or Panchayat, in such manner as the Government may, from time to time, direct.

(4) A list of the fines and of the rates of charge for feeding and watering cattle shall be exhibited in a conspicuous place on, or near to, every pound.

## CHAPTER IV

### DELIVERY OR SALE OF CATTLE

12. *Procedure when owner claims the cattle and pays fines and charges.*—(a) If the owner of the impounded cattle or his agent

appears and claims the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

(b) The owner or his agent, on taking back the cattle shall sign a receipt for them in the register kept by the pound-keeper.

13. *Procedure if cattle be not claimed within a week.*—(1) If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the local authority concerned or to such officer as the Director specifies in this behalf.

(2) The local authority or the other officer shall thereupon affix in a conspicuous part of its or his office a notice stating—

(a) the number and description of the cattle,

(b) the place where they were seized,

(c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and in the market place nearest to the place of seizure.

(3) If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the local authority or the said officer or any other officer subordinate to him deputed for that purpose, at such place and time and subject to such conditions as the Director, by general or special order, from time to time, directs:

Provided that if any such cattle are, in the opinion of the Director, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such other manner as he thinks fit.

14. *Delivery to owner disputing legality of seizure but making deposit.*—If the owner or his agent appears and refuses to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section 19, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

15. *Procedure when owner refuses or omits to pay the fines and expenses.*—(1) If the owner or his agent appears and refuses or omits to pay or in the case mentioned in section 14 to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by the local authority or by such officer, as the case may be, at such place and time, and subject to such conditions as are referred to in section 13.

(2) The fines leviable and expenses of feeding and watering together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

(3) The remaining cattle, and the balance of the proceeds of sale, if any, shall be delivered to the owner or his agent, together with an account showing—

(a) the number of cattle seized,
(b) the time during which they have been impounded,
(c) the amount of fines and charges incurred,
(d) the number of cattle sold,
(e) the proceeds of sale, and
(f) the manner in which those proceeds have been disposed of.

(4) The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the proceeds of sale, if any, paid to him according to such account.

(5) If the owner or his agent refuses to receive the remaining cattle and the surplus proceeds of sale delivered to him, the cattle and the proceeds of sale shall be deemed to be unclaimed and disposed of according to the provisions of this Act.

16. *Disposal of fines, expenses and surplus proceeds of sale.*—(1) The officer by whom the sale was made shall send to the local authority the fines so deducted.

(2) The charges for feeding and watering deducted under section 15 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 12.

(3) The surplus unclaimed proceeds of the sale of cattle shall be sent to the local authority, who shall hold them in deposit, and if no claim thereto be preferred within three months and established, shall dispose of them as hereinafter provided.

17. *Application of fines and unclaimed proceeds of sale.*—(1) All sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be credited to the fund of the local authority or, where there is no Municipal Corporation, Municipal Council or Panchayat, in such manner as the Government may, from time to time, direct.

(2) The salaries allowed to pound-keepers and the expenses incurred for the construction and maintenance of pounds or for any other purpose connected with the carrying out of the provisions of this Act shall be paid by the local authority.

18. *Officers and pound-keepers not to purchase cattle at sales under this Act.*—(1) No Police officer, or other officer or pound-keeper appointed under the provisions herein contained and no member of the local authority under whose control the pound is shall, directly or indirectly, purchase any cattle at a sale under this Act.

(2) No pound-keeper shall release or deliver any impounded cattle, otherwise than in accordance with the provisions of this Chapter, unless such release or delivery is ordered by the Director or the local authority or the Magistrate acting under Chapter V of this Act or a civil court, in writing stating the reasons for such order.

## CHAPTER V

### Complaints of illegal seizure and detention

19. *Power to make complaints.*—Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of seizure, make a complaint to the District Magistrate or any Magistrate authorised to receive and try charges without reference by the Magistrate of the district.

20. *Procedure on complaints.*—(1) The complaint shall be made by the complainant in person or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

(2) If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well-founded, he shall summon the person complained against and make an enquiry into the case.

21. *Compensation for illegal seizure or detention and release of cattle.*—(1) If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle.

(2) If the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

22. *Recovery of compensation.*—The compensation, fines and expenses mentioned in section 21 may be recovered in the manner provided for the recovery of fines under the Code of Criminal Procedure, 1898.

## CHAPTER VI

### Penalties

23. *Penalty for forcibly opposing the seizure of cattle or rescuing the same.*—Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act, shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

24. *Penalty for damage caused to land or crops or public roads by cattle.*—Any owner, or keeper, or attendant of cattle, who causes or suffers cattle to stray about without a keeper or who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land or any public road, by allowing such cattle to trespass thereon, shall, on conviction before a Magistrate, be liable to a fine not less than twenty-five rupees, but not exceeding two hundred and fifty rupees or to imprisonment for a term not exceeding three months, or to both.

25. *Recovery of penalty for mischief committed by causing cattle to trespass.*—Any fine imposed under section 24 or for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

26. *Powers of Police to investigate offences under section 24.*—Notwithstanding the provisions contained in the Code of Criminal Procedure, 1898, any Police Officer may investigate without the order of a Magistrate into an offence under section 24 as if it were a cognizable case, but he shall not arrest without warrant from a Magistrate any person accused of an offence under section 24.

27. *Penalty on pound-keeper failing to perform duties.*—Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 18, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees. Such fines may be recovered by deductions from the pound-keeper's salary.

28. *Application of fines recovered under sections 24, 25 and 27.*—All fines recovered under sections 24, 25 and 27 may be appropriated, in whole or in part, as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

## CHAPTER VII

### Suits for compensation

29. *Saving of right to sue for compensation.*—Nothing herein contained shall be deemed to prohibit any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent civil court.

30. *Set-off.*—Any compensation paid under this Act, by order of a convicting Magistrate, to a person whose crops or other produce of land have been damaged by trespass by cattle, shall be set-off and deducted from any sum due to that person as compensation in any civil suit referred to in section 29.

## CHAPTER VIII

### Miscellaneous

31. *Delegation of powers.*—The Director may, by notification in the Gazette, delegate all or any of his powers under this Act to any officer of his Department and may by like notification withdraw such powers.

32. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) All rules made under this section shall be laid before the Legislative Assembly for a period of not less than fourteen days as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

33. *Repeal and savings.*—The Travancore-Cochin Cattle Trespass Act, 1125 (Act XII of 1125) and the Cattle Trespass Act, 1871 (Central Act 1 of 1871) in its application to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, are hereby repealed; but notwithstanding such repeal all pounds established under the aforesaid; Acts shall be deemed to be pounds established under this Act.

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Gazette Extraordinary No. 89 Dated 15th July 1961.

GOVERNMENT OF KERALA

**Law Department**

NOTIFICATION.

No. 10086-H2|60|Law.

*Dated, Trivandrum, 15th July 1961|24th Asadha 1883.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 12th day of July, 1961.

By order of the Governor,
P. SANKARAN ELAYATH,
*Law Secretary.*

# ACT 27 OF 1961

## THE KERALA AGRICULTURISTS' LOANS ACT, 1961.

*An Act to consolidate and amend the laws relating to loans of money by the Government for land and agricultural improvements in the State of Kerala*

*Preamble.*—WHEREAS it is expedient to consolidate and amend the laws relating to loans of money by the Government for land and agricultural improvements in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

## PART I

### PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Agriculturists' Loans Act, 1961.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Collector" means the Collector of the district or any officer empowered by the Government to discharge the functions of a Collector under this Act;

(b) "improvement" means any work which adds to the value of the land, and includes the following, namely:—

(i) the construction of wells, tanks, sluice, bund and other works for the storage, supply or distribution of water for the purposes of agriculture or for the use of men and cattle employed in agriculture;

(ii) the preparation of land for irrigation;

(iii) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or land which is cultivable;

(iv) the construction of permanent bunds around Punja or Kayal fields used for agricultural purposes;

(v) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(vi) the construction of walls, boundary walls (kayyalas), store houses, farm houses and catele sheds;

(vii) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto;

(viii) the planting or rearing of such kinds of plants and crops as may be notified in the Gazette by the Government; and

(ix) such other works as the Government may, from time to time, by notification in the Gazette, declare to be improvements for the purposes of this Act;

(c) "prescribed" means prescribed by rules made under this Act.

## PART II

### Land Improvement Loans

3. *Purposes for which loans may be granted under this Part.*—Subject to such rules as may be made under section 9, loans may be granted under this Part by the Government or such officer or authority as may, from time to time, be empowered in this behalf by the Government, by notification in the Gazette, for the purpose of making any improvement, to any person having a right to make the improvement or, with the consent of that person, to any other person.

4. *Mode of dealing with application for loans.*—(1) When an application for a loan is made under this Part, the authority to whom the application is made may, if it is in the opinion of the authority expedient that public notice be given of the application, publish a notice in such manner as may be prescribed, calling upon all persons objecting to the loan to appear before the authority at a time and place fixed therein and submit their objections.

(2) The authority shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or over-ruling it.

5. *Period of repayment of loans.*—(1) Every loan granted under this Part shall be made repayable in such manner and at such time as the Government may prescribe or by instalments, in the form of an annuity or otherwise, within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the advance of the last instalment actually paid, as may, from time to time, be fixed by rules made under this Part.

(2) The period fixed as aforesaid shall not ordinarily exceed twenty years.

6. *Subsequent encumbrances void against Government.*—All encumbrances created on the land offered as security for the loan, after the date of the order granting the loan, shall be void as against all claims enforceable by the Government in respect of such loan.

7. *Recovery of loans.*—(1) Subject to such rules as may be made under section 9, all loans granted under this Part, all interest chargeable thereon, and costs, if any, incurred in making and recovering the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely:—

(a) from the borrower—as if they were arrears of land revenue due by him;

(b) from his surety, if any—as if they were arrears of land revenue due by him;

(c) out of the land for the benefit of which the loan has been granted—as if they were arrears of land revenue due in respect of that land;

(d) out of the property comprised in the collateral security, if any—according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which that revenue is due.

(2) All sales of land under clause (c) of sub-section (1) shall be free of all encumbrances created on the land subsequent to the date of the order granting the loan.

(3) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property, as the case may be, recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in the manner provided by sub-section (1).

(4) It shall be in the discretion of the Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

8. *Order granting loan conclusive on certain points.*—A written order under the hand of an authority empowered to make loans under this Part granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

(a) that the work described is an improvement within the meaning of this Act;

(b) that the person mentioned had at the date of the order a right to make such an improvement;

(c) that the improvement is one benefiting the land specified.

9. *Power to make rules.*—(1) The Government may, from time to time, by notification in the Gazette, make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of making applications for loans;

(b) the manner of conducting inquiries relating to applications for loans, and the powers to be exercised by officers conducting those inquiries;

(c) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans:

Provided that the rate of interest shall not be less than three per cent nor more than five per cent per annum;

(d) the inspection of works for which loans have been granted;

(e) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid;

(f) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(g) all other matters pertaining to the working of this Part.

(3) All rules made under this section shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

## PART III

### LOANS FOR THE RELIEF OF DISTRESS, PURCHASE OF SEED, CATTLE, ETC.

10. *Power to make rules.*—(1) The Government may, from time to time, by notification in the Gazette, make rules as to loans to be made to owners and occupiers of arable land for the

relief of distress, purchase of seed, cattle, manure or agricultural implements, motors and pump sets or any other purpose not specified in Part II of this Act, but connected with agricultural objects.

(2) All rules made under this section shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

11. *Recovery of loans.*—Every loan granted in accordance with the rules made under section 10, all interest chargeable thereon, and costs, if any, incurred in making or recovering the same shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

## PART IV

### MISCELLANEOUS

12. *Liability of joint borrowers as among themselves.*—When a loan is made under Part II or Part III to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the authority making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

13. *Repeal.*—(1) The Land Improvement Loans Act, 1883 (Central Act 19 of 1883) and the Agriculturists Loans Act, 1884 (Central Act 12 of 1884) in their application to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, the Land Improvement and Agricultural Loans Act, 1094 (Travancore Act IX of 1094) and the Cochin Agricultural Improvement Loans Act, 1093 (IV of 1093), are hereby repealed.

(2) Notwithstanding such repeal, advances made before the commencement of this Act and costs incurred by the Government in respect of such advances shall be recovered as if the said Acts had not been repealed by this Act.

REGISTERED No. M. 7463

# KERALA GAZETTE

## EXTRAORDINARY

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# GOVERNMENT OF KERALA

## Health and Labour Department (Municipal Rules)

## NOTIFICATION

No. 57640/M1. Rules/61. *Dated, Trivandrum, 15th July 1961.*

In pursuance of rule 3 of the Municipal Councillors Election Rules. 1961, issued under the Kerala Municipalities Act, 1960 (Act 14 of 1961), the Government of Kerala hereby publish the following list of symbols which may be used by the candidates at the elections of Councillors to the Municipal Councils in the State.

1. Two Bulls with yoke on.
2. Hut.
3. Ears of Corn and Sickle.
4. Lamp.
5. Ladder.
6. Boat.
7. Camel.
8. Flaming torch.
9. Flower.
10. Scales.
11. Spade and stoker.
12. Star.
13. Twig with two leaves.

By order of the Governor,

K. C. SANKARANARAYANAN,
*Additional Health Secretary.*

# GOVERNMENT OF KERALA

## Health and Labour Department, (Municipal Rules)

### NOTIFICATION.

G. O. MS. 804. *Dated, Trivandrum, 15th July 1961.*

In exercise of the powers conferred by the proviso to sub rule (3) of rule 4 of the Municipal Councillors Election Rules, 1961 issued under the Kerala Municipalities Act, 1960 (Act 14 of 1961), the Government of Kerala hereby impose the following restrictions on the choice of symbols by the Candidates at the elections of Councillors to the Municipal Councils in the State, namely: —

The symbols shown in column (1) of the table appended hereto will be chosen by and assigned to only the candidates formally sponsored by the political party mentioned against each symbol in column (2) thereof.

TABLE

| | (1) | (2) |
|---|---|---|
| 1. | Two bullocks with yoke on. | Indian National Congress. |
| 2. | Hut. | Praja Socialist Party. |
| 3. | Ears of Corn and Sickle. | Communist Party of India. |
| 4. | Lamp. | Bharatiya Jana Sangh. |
| 5. | Ladder. | Indian Union Muslim League. |

Subject to the above restrictions, the following symbols, which remain in the list will be available for assignment by the Election Officers to any candidate without any restriction by Government.

6. Boat.
7. Camel.
8. Flaming torch.
9. Flower.
10. Scales.
11. Spade nd stoker.
12. Star.
13. Twig with two leaves.

By order of the Governor,

K. C. SANKARANARAYANAN,
*Additional Health Secretary*